UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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2135	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/815,191	BAGGA ET AL.
	Examiner	Art Unit
	Tom Gyorfi	2135

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>31 October 2007</u>.
2a)☐ This action is **FINAL.**　　2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-27</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some * c)☐ None of:
　　　1.☐ Certified copies of the priority documents have been received.
　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-27 remain for examination. The correspondence filed 10/31/07

amended claims 1, 21, and 27.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

10/31/07 has been entered.

Response to Arguments

3.   Applicant's arguments filed 10/31/07 with regards to the rejection of claim 27

under 35 USC 101 have been fully considered but they are not persuasive. Applicant

has amended to the claim to recite that the article of manufacture is a machine-readable

storage medium; however, this fails to resolve the problems identified by the Examiner

for two reasons.

First, the instant specification explicitly discloses information on a network (the

intangible signal embodiments) as being a memory [i.e. a storage medium] "because

the associated processor can retrieve the information from the network" (specification,

page 21, line 25 – page 22, line 3). Accordingly, the fact that the claim now recites a

storage medium does not preclude the claimed invention from being embodied as a

wholly intangible signal(s) of information. Such an embodiment is not a judicially

recognized article of manufacture, as per *Diamond v. Chakrabarty*, 447 U.S. 303, 308,

206 USPQ 193, 196-197 (1980). Examiner respectfully suggests that this primary issue

may be overcome either by further amending the claim to limit the article of manufacture

to being any of the "recordable medium" variants (see specification, page 21, line 17) or

in the alternative, by amending the specification to remove those references of a signal

or network transmission medium as being a permissible storage medium.

Second, even if the specification did not define the term "storage medium" to

include signals, the traditional types of storage media explicitly disclosed by the

specification (the recording media: "e.g. floppy disks, hard drives, compact disks, or

memory cards" as listed on page 21, lines 13-24) do not themselves perform any of the

recited steps in the claim. For example, a floppy disk cannot by itself "perform an

Internet search" or any of the other limitations recited in the claim; rather, the storage

media exist to provide a computer (for which no recitation exists in the claim) with the

program code that will compel said computer to perform those limitations. Even the

specification limits the code embodiment strictly to being operable "in conjunction with a

computer system" (page 21, lines 15-17). Clearly, then, the claimed article of

manufacture does not produce a useful result, despite the claim language being written

to suggest that the article of manufacture directly executes the one or more programs

stored therein. Examiner respectfully suggests that this secondary issue could be

overcome if the claim were further amended to explicitly recite that the one or more programs are executed by a computer.

4.   Applicant's arguments with respect to the prior art rejections of claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

5.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6.   Claim 27 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, and lacks patentable utiltity. The claim is directed to an article of manufacture comprising a machine-readable storage medium containing one or more programs; however, as the article of manufacture does not appear to be defined as any type computer or machine capable of executing the claimed program (see the instant specification, page 21, lines 12-24), thus the claimed subject matter lacks any requisite functionality to satisfy the practical application requirement, making the claim non-statutory: *Diamond v. Diehr*, 450 U.S. at 185-186, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.") See also MPEP § 2106.01. Furthermore, the claim encompasses intangible embodiments that are non-statutory as discussed above, which do not qualify as "articles of manufacture" or any of the other statutory classes of invention. Appropriate correction is required.

Claim Rejections - 35 USC § 103

7.   Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the

P-synch version 6.2 software product, as evidenced by the "P-Synch Installation and

Configuration Guide" (hereinafter, "P-Synch"), in view of the web page

"SecurityStats.com Password Strength Meter" (hereinafter, "SecurityStats.com").

Regarding claims 1, 21, and 27:

P-Synch discloses a method, apparatus, and article of manufacture for

evaluating a password proposed by a user during an enrollment process (page 21, "5.3

Accounts on target systems") comprising: receiving said proposed password from said

user (page 4, "3. Users select a new password…"); evaluating results from a table

lookup relative to one or more predefined thresholds (page 4, "4. P-Synch checks the

new password…"; cf. pages 124-126, but particularly those rules on page 126 as

indicated); and rejecting said proposed password when said user is correlated with said

proposed password if one ore more of said predefined thresholds are exceeded by said

results (Ibid). With respect to claim 21, P-synch is installed on a server (page 28, "1.

Prepare a P-Synch server…"), which inherently possesses memory and a processor

coupled to said memory.

P-Synch does not explicitly disclose performing an Internet search using a query

containing one or more keywords derived from said proposed password. However, it is

observed that P-synch, while already possessing a defined set of rules to measure a

proposed password's strength, can nevertheless be extended by allowing an admin to

add new rules via a plugin (page 127, section 10.19.1 "Adding new rules with a plugin

program"). Furthermore, it is observed that P-Synch is essentially a web application, in

that users interact with P-Synch via a web browser (page 6, "2.2.1 User Interfaces"; cf

Figure 10.3 on page 93) and P-Synch is capable of interacting with other web sites via a

web interface (see the "HTTP apps" and "HTTPS apps" on page 20; cf. the sample

scripts for interacting with a website on pages 327 & 328). Moreover,SecurityStats.com

discloses a publicly available web site on the Internet that one may query to determine if

a password is sufficiently strong (see page 1). Additionally, SecurityStats.com

recommends not using the actual proposed password but rather something similar [i.e.

a keyword] to perform the query (page 1, 2nd paragraph). Thus the claim is obvious

because all the claimed elements were known in the art, and one of ordinary skill in the

art could have combined the elements as claimed by known methods (i.e. writing a

plug-in for P-Synch to use P-Synch's web interface to query SecurityStats.com as a

new password strength rule), and the combination would have yielded predictable

results to one of ordinary skill in the art at the time of the invention.

Regarding claims 2, 3, and 22:

P-Synch further discloses wherein said one or more predefined correlation rules

evaluate whether that said proposed password can be [qualitatively: the password is the

username; quantitatively: the password is similar to the username] correlated with said

user (page 126, as indicated).

Regarding claims 4, 6, 23, and 24:

P-Synch further discloses wherein said proposed password is comprised of a

proposed answer and a proposed hint (the user Q&A profiles on pages 83 and 199-200;

cf.). Although P-Synch has many rules by which one can correlate a proposed

password to known weak passwords, P-Synch does not explicitly disclose determining

whether the proposed answer can be correlated to/obtained from the proposed hint (i.e.

the proposed password should not be similar to any of the personal information used in

establishing one's personal profile – see also page 6, "2.2.2 Authentication System").

However, P-Synch discloses that one can augment the rules by which it determines the

strength of proposed passwords (via external plug-ins, page 126; cf. sections 10.19.1

and 10.19.2 on pages 127-128) developed using techniques that one of ordinary skill in

the art would have known (pages 576-584), said plug-ins allowing P-Synch to query

additional sources for password strength rules (Ibid). Furthermore, SecurityStats.com

teaches that it was common knowledge that various kinds of information already

retained by P-Synch for a user's personal profile (the hints and answers), makes for

very weak passwords (the "DONT'S" list on pages 1-3). It would have been obvious to

one of ordinary skill in the art at the time the invention was made to develop a plug-in for

P-Synch, in accordance with the techniques explicitly disclosed for that exact purpose,

that would have allowed it to query the user's personal profile to see if the proposed

answer correlates to [e.g. is an anagram of], or can be obtained from [e.g. is an exact

match for], the password hint. All the claimed elements were known in the prior art and

one skilled in the art could have combined the elements as claimed by the disclosed

methods, and the combination would have yielded predictable results to one of ordinary

skill in the art at the time of the instant invention.

Regarding claim 5:

P-Synch further discloses wherein said particular relation is selected from the

group consisting essentially of self, family member, co-author, teammate, colleague,

neighbor, community member, or household member (pages 83, 199, & 200).

Regarding claims 7 and 25:

P-Synch further discloses wherein said proposed password is an identifying

number (e.g. PIN number, e.g. page 6, "2.2.2 Authentication Systems").

Regarding claims 8, 10, 11 and 26:

Although P-Synch discloses wherein said proposed password is an identifying

number, it does not explicitly disclose rules to determine if the identifying number meets

any of the following criteria: whether said identifying number identfies a person in a

particular relationship to said user [claims 8 and 26], identifies a top N commercial entity

[claim 10], or identifies said user [claim 11]. However, P-Synch maintains a database

with each of those pieces of information: a number that identifies a person in a particular

relationship to said user ("Family member phone number that is not your own", pages

83 and 200), a top N[1] commercial entity (radio station dial number, Ibid), and the user

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[1] For purposes of the rejection of claim 10, it is assumed that N=1.

("Your SSN", Ibid). P-Synch further discloses that one can augment the rules by which

it determines the strength of proposed passwords (via external plug-ins, page 126; cf.

sections 10.19.1 and 10.19.2 on pages 127-128) developed using techniques that one

of ordinary skill in the art would have known (pages 576-584), said plug-ins allowing P-

Synch to query additional sources for password strength rules (Ibid). Furthermore,

SecurityStats.com teaches that it was common knowledge that each piece of personal

information known to be recorded by P-Synch makes for a very weak password (the

"DONT'S" list on pages 1-3). It would have been obvious to one of ordinary skill in the

art at the time the invention was made to develop a plug-in for P-Synch, in accordance

with the techniques explicitly disclosed for that exact purpose, that would have allowed

it to query the user's personal profile to evaluate whether the identifying number meets

any of the recited criteria in these claims. All the claimed elements were known in the

prior art and one skilled in the art could have combined the elements as claimed by the

known methods, and the combination would have yielded predictable results to one of

ordinary skill in the art at the time of the instant invention.

Regarding claim 9:

P-Synch further discloses wherein said one or more pre-defined correlation rules

evaluate whether said identifying number is a top N most commonly used identifying

number (in the embodiment where the password is a PIN, the password history rules on

pages 126 and 127).

Regarding claims 12-14:

P-Synch further discloses wherein said identifying number is a portion of a

telephone number, address, or social security number (pages 83 and 200).

Regarding claim 15:

P-Synch further discloses wherein said proposed password is a word (page 125,

the dictionary rules).

Regarding claim 16:

P-Synch further discloses wherein said one or more predefined correlation rules

evaluate whether a correlation between said word and said user exceeds a predefined

threshold (e.g. the last two rules on page 125).

Regarding claim 17:

P-Synch further discloses wherein said correlation is determined by performing a

meta-search (searching in accordance with rules found in one or more external plug-ins

and/or the password history table, page 126).

Regarding claim 18:

P-Synch further discloses wherein said step of ensuring a correlation further

comprises the step of performing a meta-search (Ibid).

Regarding claim 19:

P-Synch further discloses wherein said step of ensuring a correlation further comprises the step of performing a local proximity evaluation (e.g. the last two rules on page 125, and the variants of the username on page 126).

Regarding claim 20:

P-Synch further discloses wherein said step of ensuring a correlation further comprises the step of performing a number classification (the digits rules: page 125).

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: the "P-Synch white paper" further corroborates Examiner's analysis that the P-Synch product was capable of interacting directly with other web applications (see page 8, "Web applications").

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Gyorfi whose telephone number is (571) 272-3849. The examiner can normally be reached on 8:30am - 5:00pm Monday - Friday.
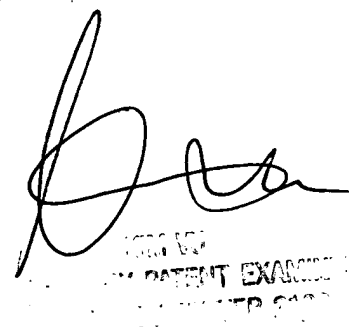
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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TAG
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